

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

FRANCES E. MOLARIUS,

Plaintiff,

v.

NORTHWEST NEVADA TELCO, INC. a
corporation; NEVADA TELCOM SERVICES,
INC. and/or DOES I through X, ROE
CORPORATIONS A through E, jointly and
severally,

Defendants.

03:05-CV-00383-LRH-VPC

ORDER

Presently before the court is a Motion for Attorney's Fees and Related Non-Taxable Expenses (# 84¹) filed by defendants, Northwest Nevada Telco, Inc. and Nevada Telecom Services, Inc. (collectively, "Defendants"). Plaintiff, Frances Molarius ("Molarius"), has filed an opposition (# 94), and Defendants replied (# 99). Also before the court is Molarius's Motion for Stay (# 100). Defendants have filed an opposition (# 101), and Molarius replied (# 103).

Defendants seek to recover \$94,178.75 in attorney's fees and \$8,293.66 in non-taxable costs. Molarius opposes the motion arguing that her claims were brought in good faith and pursuant to an honest and sincere assessment of the law and facts.

¹Refers to the court's docket number.

1 The court may award attorney's fees to Defendants upon a finding that Molarius's action
2 was frivolous, unreasonable, or without foundation, even though it was not brought in subjective
3 bad faith. *See Christiansburg Garment Co. v. Equal Employment Opportunity Commission*, 434
4 U.S. 412 (1978). Although the issue is close in the case at bar, the court finds that Molarius's
5 action was not frivolous, unreasonable, or without foundation. As such, Defendants' motion will
6 be denied.

7 In addition, Molarius has filed a motion requesting a stay on the costs awarded to
8 Defendants. Molarius asserts that paying the costs would constitute an extreme hardship because
9 Molarius is unemployed due to her health and is currently awaiting commencement of disability
10 benefits. As Molarius has not posted a supersedeas bond, she is not entitled to a stay pursuant to
11 Rule 62(d) of the Federal Rules of Civil Procedure. *See Fed. R. Civ. P. 62(d)*. Furthermore,
12 Molarius has not made a showing to support the court's discretionary grant of relief. *See Matter of*
13 *Combined Metals Reduction Co.*, 557 F.2d 179, 193 (9th Cir. 1977); *see also Dillon v. Chicago*,
14 866 F.2d 902, 904-05 (7th Cir. 1989). For these reasons, Molarius's motion will be denied.

15 IT IS THEREFORE ORDERED that Defendants' Motion for Attorney's Fees and Related
16 Non-Taxable Expenses (# 84) is hereby DENIED.

17 IT IS FURTHER ORDERED that Molarius's Motion for Stay (# 100) is hereby DENIED.

18 IT IS SO ORDERED.

19 DATED this 3rd day of September, 2008.



22 LARRY R. HICKS
23 UNITED STATES DISTRICT JUDGE
24
25
26